



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG-2019-0785]

RIN 1625-AA11

Regulated Navigation Areas; Harbor Entrances along the Coast of Northern California

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to amend the Regulated Navigation Area (RNA) at the harbor bar entrance to Crescent City Harbor. This document proposes to update coordinates. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2019-0785 using the Federal eRulemaking Portal at <http://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Marcia Medina, Coast Guard District 11 Waterways Office; telephone 510-437-2978, email Marcia.A.Medina@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<i>Federal Register</i>
NOAA	National Oceanic and Atmospheric Administration
NPRM	Notice of Proposed Rulemaking
OMB	Office of Management and Budget
RNA	Regulated Navigation Area
§	Section
U.S.C.	United States Code

II. Background, Purpose, and Legal Basis

On July 17, 2020, the Coast Guard published a final rule titled “Regulated Navigation Area: Harbor Entrances along the Coast of Northern California” at 33 CFR 165.1196 (85 FR 43437). That rule established an RNA at the harbor entrance of Crescent City, California. Since publishing the previous rule, the Eleventh Coast Guard District was contacted by the National Oceanographic and Atmospheric Administration (NOAA) Marine Chart Division, part of the Nautical Data Branch of the Office of Coast Survey of the National Ocean Service. The NOAA Marine Chart Division brought to the Coast Guard’s attention that the geographic coordinates for the RNA at the harbor entrance of Crescent City appeared to incorrectly capture the entirety of the harbor entrance. The Coast Guard agreed, and worked with the NOAA Marine Chart Division to develop new coordinates that properly capture the entirety of the harbor entrance of Crescent City. The Coast Guard is proposing to revise the RNA to account for these discussions and to ensure the safety and security of the marine environment. The Coast Guard proposes this rulemaking under authority in 46 U.S.C. 70034.

III. Discussion of Proposed Rule

The Commander of the Eleventh Coast Guard District proposes to amend the Regulated Navigation Area: Harbor Entrances along the Coast of Northern California at (33 CFR 165.1196) by updating the coordinates of the Crescent City RNA. Updating the coordinates will not materially affect the size or the general geographic location of the RNA. Instead, the update will correct an issue raised by the NOAA Marine Chart

Division. Specifically, the updated coordinates will fully and properly capture the entirety of the harbor entrance to Crescent City. The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and executive orders and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the limited economic impact of this proposed rule amendment. The proposed rule will merely update geographic coordinates. It has no bearing on the impact or the effective period of the current RNA.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast

Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing, if these facilities or vessels are in the vicinity of the RNA at times when the RNA has been activated. This rule will not have a significant economic impact on a substantial number of small entities for the following reason: the rule merely updates geographic coordinates and does not alter the existing RNA in any other way.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not

individually or cumulatively have a significant effect on the human environment. This proposed rule involves a RNA that would prohibit the transit of maritime traffic in times of unsafe conditions. Normally such actions are categorically excluded from further review under L60[a] of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the ADDRESSES section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have

provided. For more about privacy and the docket, visit

<http://www.regulations.gov/privacyNotice>.

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 46 U.S.C. 70034; 70051; 33 CFR 1.05-1, 6.04-1, 6.04-6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 165.1196 by:

- a. Removing paragraph (a)(3), definition for Crescent City Harbor Entrance Channel *Regulated navigation area, and*
- b. Adding new paragraph (a)(3) to read as follows:

§165.1196 Regulated Navigation Areas; Harbor Entrances along the Coast of Northern California.

- (a) ***

- (3) Crescent City Harbor Entrance Channel: The navigable waters of the

Crescent City Harbor Entrance Channel enclosed by the following coordinates:

- (i) 41°43'50"N, 124°11'27" W (Point A)
- (ii) 41°44'12"N, 124°11'42" W (Point B)
- (iii) 41°44'26" N, 124°10'55" W (Point C)
- (iv) 41°44'13" N, 124°10'20" W (Point D); and

Thence back to Point A, in Crescent City, CA (NAD 83).

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Dated: October 22, 2020

Brian K. Penoyer,
Rear Admiral, U.S. Coast Guard,
Commander, Coast Guard District Eleven.

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